

Zelmer Hyden

deposition

April 27, 2006

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

CHARLIE J. DAVIS, JR.,

Plaintiff,

vs.

ZELMER HYDEN, et al.,

Defendants.

 COPY

\_\_\_\_\_)  
NO: A02-0214 CV (JKS)

DEPOSITION OF ZELMER HYDEN

THURSDAY, APRIL 27, 2006, 9:28 a.m.

Anchorage, Alaska

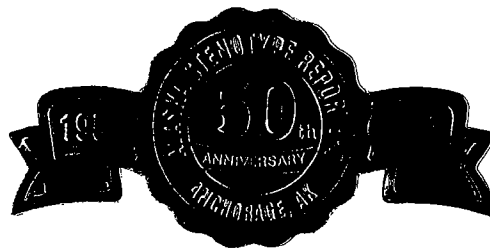


Exhibit 15  
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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF ALASKA

3  
4 CHARLIE J. DAVIS, JR.,  
5 Plaintiff,  
6 vs.  
7 ZELMER HYDEN, et al.,  
8 Defendants.

9  
10 NO: A02-0214 CV (JKS)

11  
12  
13 DEPOSITION OF ZELMER HYDEN, taken on behalf  
14 of Plaintiff, Pursuant to Notice, at MATTHEWS &  
15 ZAHARE, 431 West Seventh Avenue, Anchorage, Alaska,  
16 before Susan Campbell, Certified Shorthand Reporter  
17 for Alaska Stenotype Reporters and Notary Public for  
18 the State of Alaska.  
19  
20  
21  
22  
23  
24  
25

Page 3

1 A-P-P-E-A-R-A-N-C-E-S

2  
3 For Plaintiff: MATTHEWS & ZAHARE  
BY: THOMAS A. MATTHEWS  
4 431 West Seventh Avenue  
Suite 207  
5 Anchorage, AK 99501  
6

7 For Defendants: STATE OF ALASKA  
ATTORNEY GENERAL'S OFFICE  
8 Department of Law  
Criminal Division  
BY: MARILYN J. KAMM  
9 P.O. Box 110300  
Juneau, AK 99811  
10

11 Reported By: Susan Campbell  
12 Certified Shorthand Reporter  
13  
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1 ANCHORAGE, AK, THURSDAY, APRIL 27, 2006, 9:28 a.m.  
2 ZELMER HYDEN,  
3 called as a witness on behalf of the  
4 Plaintiff, having been duly sworn upon  
5 oath by Susan Campbell, Notary Public,  
6 was examined and testified as follows:  
7

8 EXAMINATION

9 BY MR. MATTHEWS:

10 Q. Would you state your name for the record,  
11 please?

12 A. Okay. First name is Zelmer, Z-e-l-m-e-r.  
13 Last name is Hyden, H-y-d-e-n.

14 Q. Could you give us an address, please?

15 A. P. O. Box 536, Sutton, Alaska 99674.

16 Q. Do you have telephone number out there?

17 A. 746-0336.

18 Q. How long have you lived in Sutton?

19 A. Oh, about seven, eight years.

20 Q. Ever had a deposition taken before?

21 A. Negative.

22 Q. Let me tell you briefly then just a couple  
23 of the ground rules. I'm going to try and ask  
24 questions clearly and intelligently. Sometimes I do.  
25 Sometimes I don't. If you don't understand my  
question for any reason, please let me know and I'll

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1 be happy to rephrase it.  
 2 It's not a test of your endurance, by any  
 3 means. If you needed a break, bathroom, coffee,  
 4 cigarette, walk around the block, anything like that,  
 5 just let me know and we'll be happy to accommodate  
 6 you. Hopefully, get you out of here before lunchtime  
 7 and back on your way to Sutton.

8 A. Works for me.

9 Q. Okay. In 2002 were you employed by the  
 10 State of Alaska?

11 A. That is correct. I believe at that time I  
 12 was the acting superintendent, Palmer Correctional  
 13 Center.

14 Q. Maybe you could give me, just to make it  
 15 easy on us, sort of a thumbnail sketch of your  
 16 employment history.

17 A. History of my employment?

18 Q. If you would.

19 A. Okay. I started with the State in 1978 as a  
 20 psychiatric assistant at Alaska Psychiatric Institute.  
 21 Worked there for about five years. And then I moved  
 22 to the Department of Corrections, oh, probably about  
 23 '83, '82, something like that. Worked at Cook Inlet,  
 24 Mat-Su Pretrial, Third Avenue Jail and Palmer  
 25 Correctional Center.

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1 Q. How long did you stay employed by the State?

2 A. About 26 years all together.

3 Q. So you left State employment in what, 2004?

4 A. 2004. I believe June of '04 for retirement.

5 Q. And are you actively employed now?

6 A. No. Except housecleaning and things like  
 7 that. You know how that goes.

8 Q. Not working for pay, anyway.

9 A. No. It's all free now. Slave labor.

10 Q. And Sutton is where you make your home?

11 A. Yes.

12 Q. Tell me a little bit about your educational  
 13 background.

14 A. I graduated from Roswell High School in  
 15 Roswell, New Mexico in 1970. Attended Eastern  
 16 New Mexico University for a couple of years. And then  
 17 continued with more education while I was in the  
 18 United States Air Force. Ended up with a total of  
 19 about 91 semester hours, no degree.

20 Q. What years were you in the Air Force?

21 A. 1973 for five years.

22 Q. Highest rank?

23 A. E-4, sergeant.

24 Q. Where were you stationed?

25 A. Holloman Air Force Base -- that's in

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1 Alamogordo, New Mexico -- and Elmendorf Air Force  
 2 Base.

3 Q. Is it fair to say the military brought you  
 4 up to Alaska?

5 A. That is true.

6 Q. And when you left the military in '78, you  
 7 had been stationed at Elmendorf?

8 A. That's correct.

9 Q. And went promptly to work for the State of  
 10 Alaska?

11 A. That is correct.

12 Q. What training did you have to be a  
 13 psychiatric assistant?

14 A. At that particular time at API, it was all  
 15 on-the-job training.

16 Q. How did you get into the field of  
 17 corrections?

18 A. Briefly, it was after the Charles Meech  
 19 incident. And they kind of reshuffled everything at  
 20 API. And a lot of the -- and they moved a unit to  
 21 Hiland Mountain to do E&Os out there. And I went out  
 22 there. And then from that when they did move it back  
 23 to API, I went ahead and stayed with the Department.

24 Q. I'm going to ask you to break down a couple  
 25 of things in that last answer for me.

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1 A. That would be fine.

2 Q. First of all, what was the Charles Meech  
 3 incident?

4 A. The Charles Meech incident was an individual  
 5 who killed four teenagers in Russian Jack Park. No,  
 6 no. That was the other one. I'm getting them all  
 7 together.

8 Charles Meech killed two people. He killed  
 9 one one-armed kid. And that's the reason he was in  
 10 API. And then he was -- if I remember correctly, he  
 11 was on a pass from API working at Sears and he  
 12 killed -- I'm not sure. There's so many of those guys  
 13 right in there that we dealt with that it kind of runs  
 14 together.

15 Q. Not looking to get you off on a long tangent  
 16 here. It's just when you use a term, I may ask you to  
 17 explain it, just so we understand.

18 A. That's fine.

19 Q. So Charles Meech, I take it, was a patient  
 20 at API.

21 A. Yes. He was a Title 12.

22 Q. And that means?

23 A. He was incarcerated at API because he was  
 24 found to be incompetent.

25 Q. And at some point then he went out and

3 (Pages 6 to 9)

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1 killed somebody?

2 A. Yes. While he was on a pass.

3 Q. And that led to some changes in security?

4 A. And that led to some changes in security and  
5 some changes in a number of things, thus me going to  
6 Corrections.7 Q. Okay. And so as part of that transition  
8 then, you went out to Hiland Mountain for a time?

9 A. Yes.

10 Q. And you mentioned something about E&amp;O.

11 A. Right. At that particular time, they  
12 started doing the evaluations and observing behaviors  
13 for new people who could be Title 12s.

14 Q. So E&amp;O is an evaluation and observation?

15 A. Uh-huh, yes.

16 Q. So after a stint at Hiland Mountain, then  
17 you moved full time into the field of corrections?

18 A. That's correct.

19 Q. And that would have been approximately what  
20 year?21 A. Let's add five years to 1978. What are we  
22 looking at? About '83.23 Q. Okay. When were you first assigned to  
24 Palmer, if you remember?

25 A. Oh, probably around '85 or '86.

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1 Q. I asked you earlier about the different  
2 places that you had worked at the Department of  
3 Corrections. And you listed off a number of them. I  
4 want to make sure I'm clear. Were you listing them in  
5 chronological order?

6 A. Probably not.

7 Q. Okay. What years did you work at Palmer  
8 then?9 A. Okay. Palmer was from '86 to -- '86 to when  
10 I retired, with an 18-month break when I went to  
11 Mat-Su Pretrial and then returned to Palmer. And that  
12 would have been, oh, roughly '99, that 18 months at  
13 Mat-Su.14 Q. So the great bulk of your career was at  
15 Palmer.

16 A. That is correct.

17 Q. And tell me what positions you held while  
18 you were at Palmer.19 A. Well, I started at Palmer, I went there as a  
20 Correctional Officer II. Worked security. And then  
21 Palmer had a Unit Management Program going at that  
22 time, which was a program that we had correctional  
23 counselors to assist inmates with their living skills  
24 and issues they may have while incarcerated. So I  
25 became a correctional counselor. And was a

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1 correctional counselor there for, oh, probably six  
2 years.3 Left that and was promoted to sergeant to  
4 Mat-Su. That's how I got to Mat-Su. And then from --  
5 returned to Palmer as a security sergeant, oh, in  
6 probably '01 sometime. Then was promoted to assistant  
7 superintendent, and then finally superintendent.8 Q. So you came back to Palmer as assistant  
9 superintendent?

10 A. As a sergeant.

11 Q. As a sergeant.

12 A. Right.

13 Q. And that would have been in approximately  
14 '01?

15 A. Approximately '01.

16 Q. Then what years -- strike that.

17 What year did you become assistant  
18 superintendent? Best guess.19 A. I think during the deal with Mr. Davis, I  
20 was acting superintendent. So I would have been an  
21 actual assistant at that time. And I was only  
22 assistant superintendent for probably about 18, 19  
23 months, not long.24 Q. And then you were appointed full-time  
25 superintendent?

Page 13

1 A. Right.

2 Q. And how long did you hold that position?

3 A. Oh, about two years.

4 Q. And that was the position you had when you  
5 retired?

6 A. That's correct.

7 Q. During your work for -- strike that.

8 During your work at Palmer Correctional  
9 Center, can you explain for me what medical training  
10 you had?11 A. We annually received CPR. And, of course,  
12 we're talking about a vast period of time here. So I  
13 can be -- I have to be very general. We did receive  
14 annual CPR. And there was some emergency, you know,  
15 first aid and stuff, things of that nature.16 As for my part, that was the only medical  
17 training that we had. We did have -- because I had  
18 moved past shift status at the time of this incident.  
19 So that's probably about it. I can't recall anything  
20 else.

21 Q. Okay.

22 A. A little first aid and CPR.

23 Q. In 2002 when Mr. Davis was at PCC, you were  
24 assistant superintendent?

25 A. And active superintendent.

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<p>1 Q. So there was no superintendent above you</p> <p>2 during that time period?</p> <p>3 A. No.</p> <p>4 Q. During all of 2002?</p> <p>5 A. Probably during 2002 at some time I actually</p> <p>6 became the -- the superintendent.</p> <p>7 Q. Okay. Who did you report to then?</p> <p>8 A. The director, Central Office. At that time</p> <p>9 would have been Allen Cooper.</p> <p>10 Q. Is it fair to say, then, that during 2002</p> <p>11 the rest of the staff at PCC all reported to you?</p> <p>12 A. No.</p> <p>13 Q. Okay. Explain the chain of command for me.</p> <p>14 A. Chain of command, all security staff,</p> <p>15 kitchen staff, all of the staff reported to me.</p> <p>16 Medical staff was -- the medical staff, the nurses,</p> <p>17 the PAs and the psychiatric people, mental health</p> <p>18 conditions, et cetera, actually, they were assigned to</p> <p>19 my building. And, you know, of course, their offices</p> <p>20 and everything was in my building. But they actually</p> <p>21 reported to the people in Central. I didn't write</p> <p>22 their evaluations or anything like that, no. And if I</p> <p>23 had an issue with these folks, I would go to Central</p> <p>24 and talk to them about it.</p> <p>25 Q. And Central is located physically where?</p>	<p>1 and all the staff would assemble at that time.</p> <p>2 Q. And that's a daily meeting?</p> <p>3 A. And it was daily meeting. And medical would</p> <p>4 be there most of the time, unless something was going</p> <p>5 on in which they could not.</p> <p>6 Q. Were there records kept of those meetings --</p> <p>7 A. (Witness nods head.)</p> <p>8 Q. -- regular minutes or something like that?</p> <p>9 A. Yes, there was.</p> <p>10 Q. I should have told you at the beginning, the</p> <p>11 nods of the head, the shaking the head doesn't work</p> <p>12 very well. We can't pick them up for the court</p> <p>13 reporter.</p> <p>14 A. I'm old. I'm tired.</p> <p>15 MS. KAMM: I hear you.</p> <p>16 BY MR. MATTHEWS:</p> <p>17 Q. Occasionally, I may jump in and prod you for</p> <p>18 a verbal answer. So that's the reason.</p> <p>19 A. Okay.</p> <p>20 Q. So there were written minutes kept of each</p> <p>21 of those daily meetings?</p> <p>22 A. Yes.</p> <p>23 Q. And what are those minutes called?</p> <p>24 A. Morning meeting minutes, I would assume.</p> <p>25 Q. Who was responsible for keeping those?</p>
Page 15	Page 17
<p>1 A. Diplomacy Drive.</p> <p>2 Q. In Anchorage?</p> <p>3 A. Yeah, in Anchorage.</p> <p>4 Q. During the time that you were -- strike</p> <p>5 that.</p> <p>6 Let's talk about 2002. It's a little bit</p> <p>7 easier time period. Who would the most senior medical</p> <p>8 person have been who was assigned to PCC?</p> <p>9 A. That was actually assigned there?</p> <p>10 Q. Yes.</p> <p>11 A. Would probably have been Roger Hale.</p> <p>12 Q. And Mr. Hale was a PA?</p> <p>13 A. He was a PA. And I think when you say</p> <p>14 assigned there, there were medical doctors on</p> <p>15 contract, but Mr. Hale actually worked there.</p> <p>16 Q. Okay. And Mr. Hale, then, as a medical</p> <p>17 person would not have reported directly to you.</p> <p>18 A. He would -- he would report to me. And, for</p> <p>19 example, we'd have a meeting. And if there was</p> <p>20 something significant, he would make the staff aware</p> <p>21 at that particular time. But other than that, as far</p> <p>22 as him working for me, no, he did not.</p> <p>23 Q. Did you have regular meetings with the</p> <p>24 medical staff?</p> <p>25 A. There were morning meetings at 9:30. And --</p>	<p>1 A. My -- my clerk.</p> <p>2 Q. Who would that person have been during 2002?</p> <p>3 A. I can't -- I don't know for sure, because</p> <p>4 there was -- there was two or three clerks coming and</p> <p>5 going. And I'm not sure of the time frames that they</p> <p>6 were actually there. People that did keep the</p> <p>7 meetings -- the minutes were Sharon Wesson (phonetic),</p> <p>8 I believe was her name.</p> <p>9 Q. Spell the last name.</p> <p>10 A. I'm not sure. What is her last name?</p> <p>11 Sharon. Starts with a W. I'm not even going to try</p> <p>12 to remember. It's been too far back.</p> <p>13 Melody Chowoniec was another one.</p> <p>14 Q. Can you spell that last name?</p> <p>15 A. Oh, wow. C-h-o-w-o-n-i-a-c, I believe.</p> <p>16 Q. I wasn't going to come even close to that.</p> <p>17 A. And then there was one more. I can't</p> <p>18 remember her name. And she's probably the one that</p> <p>19 was there at that particular time. It may come to me</p> <p>20 later.</p> <p>21 Q. Would that help you?</p> <p>22 A. That might.</p> <p>23 MR. MATTHEWS: Would you mark that as</p> <p>24 Exhibit 1?</p> <p>25 (Exhibit 1 was marked.)</p>

5 (Pages 14 to 17)

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1 BY MR. MATTHEWS:

2 Q. Let me trade you.

3 A. That's pretty bad.

4 Q. Because my eyes are old and tired, too. Try  
5 a magnifying glass, if that helps.6 A. Kathy Perez was one. And the one I'm trying  
7 to remember her name, Kathy Perez replaced. So Kathy  
8 Perez would be my guess as the one that was there at  
9 that particular time.

10 Q. Okay.

11 A. And she's in California.

12 Q. I take it those minutes that were kept on a  
13 daily basis, would they be typed up in some form?

14 A. (Witness nods head.)

15 Q. Is that a yes?

16 A. That's correct.

17 Q. And they would be kept then as part of your  
18 regular records?

19 A. Right.

20 Q. When you left Palmer, were those minutes  
21 intact?

22 A. Yes.

23 Q. And where were they kept, near your office?

24 A. The Clerk III kept them in her file cabinet.

25 Q. How long are those records typically kept,

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1 was our largest group of people that would change  
2 positions or change jobs. And that would be the  
3 correctional staff.4 Q. And you're kind of pointing over to the  
5 left-hand side.6 A. And I am pointing to the left side, which  
7 would be what we would call a shift. At the top you  
8 have your Correctional Officer III, who would be the  
9 sergeant of that shift, and then the people who would  
10 work for him. And there's four shifts.11 Q. So in looking at this chart, then -- hard to  
12 read the names -- but it looks like Richard Chandler,  
13 Dale Eberwein, Jay Barnhardt and Matty --

14 A. Marty Steinriede.

15 Q. -- Marty Steinriede. Those would be the  
16 four shift supervisors?

17 A. That would be the four shift supervisors.

18 Q. And the people whose names appear below them  
19 would have been all individual COs reporting to them?

20 A. That is correct.

21 Q. Help me understand this chain of command a  
22 little bit better. The way it appears, at least in  
23 this diagram, those four shift supervisors would have  
24 reported to an assistant superintendent; is that  
25 right?

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1 as far as you know?

2 A. Either five or seven years.

3 Q. So the minutes from 2002 should still be in  
4 existence at this point?

5 A. They should still be there.

6 Q. Okay. We've marked as Exhibit 1 a document  
7 that has been produced in this case. Can you tell me  
8 what that is?9 A. This is the chain of command for Palmer  
10 Correctional Center.

11 Q. Sometimes called an organizational chart?

12 A. That is correct.

13 Q. There's a date on this one in the upper  
14 left-hand corner, October 8th, 2002?

15 A. Uh-huh.

16 Q. Does that suggest to you that this was --  
17 that the document we have as Exhibit 1 is current as  
18 of that date?

19 A. It should be.

20 Q. Okay. How often were these revised, do you  
21 know?22 A. Oh, it wasn't that large of a turnover.  
23 Probably every six months or as the need arose, you  
24 know. And usually, if there was revisions, it would  
25 involve under the four shift supervisors, because that

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1 A. That is correct.

2 Q. And that position, at least as of October  
3 8th, was vacant?

4 A. That is correct.

5 Q. So was everybody reporting, in effect, to  
6 you?

7 A. That is correct.

8 Q. Each of the spots that are marked in this  
9 organizational chart that say "vacant," what does that  
10 mean? Those are positions that are authorized, but  
11 not filled?12 A. Those are positions that are vacant for  
13 budgetary issues.14 Q. Meaning the money hasn't been authorized to  
15 pay for them?16 A. Well, with issues of overtime, et cetera,  
17 sometimes I would have to hold two or three positions  
18 vacant to make sure everybody got paid.19 Q. Okay. Does the medical staff appear on this  
20 organizational chart anywhere?21 A. They are off to the left on top. You see  
22 the little squiggly line going out from the  
23 superintendent out toward them.24 Q. And that's where we see Medical PAs Hale and  
25 Hughes?

6 (Pages 18 to 21)

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1 A. Hale and Hughes. Nurses Norma Tyler,  
2 Phyllis Pettigrew. And I don't recall that other name  
3 there.

4 **Q. Appears to be a vacant nursing position.**

5 A. Well, no. There's a name there. She must  
6 not have been there very long. Wachster (phonetic),  
7 that name right there. I probably knew her by her  
8 first name, but not her last name.

9 **Q. And that's the -- the position you're**  
10 **looking at is the one underneath Phyllis Pettigrew and**  
11 **to the right?**

12 A. That is correct.

13 **Q. Where it says "LPN"?**

14 A. Uh-huh.

15 **Q. And LPN is a designation for licensed --**

16 A. Licensed practical nurse.

17 **Q. Immediately to the left of that box is the**  
18 **name Tyler?**

19 A. Right.

20 **Q. And that person was a nurse, too?**

21 A. That -- yes.

22 **Q. And there was also a vacant position there;**  
23 **is that right?**

24 A. I don't see a vacant position.

25 **Q. Maybe I'm just not reading it right. Is**

Page 23

1 **that the first name?**

2 A. That's -- yes. What they've done is they  
3 did -- they put two PCNs in there. PCN would be the  
4 employee number. So Norma Tyler is obviously one of  
5 the PCNs. And the other one is vacant, yes. So  
6 there's a vacant spot there.

7 **Q. What's a PCN number?**

8 A. A PCN number is a number that every State  
9 employee has a PCN. And it's basically their number.  
10 And the -- like the 20 designates Department of  
11 Corrections. And 18 or something might be DOT or  
12 something of that nature.

13 **Q. So each of these numbers then tells us an**  
14 **individual employee.**

15 A. Right.

16 **Q. Is it fair to say in looking at this chart,**  
17 **Exhibit 1, that the medical staff actually working at**  
18 **Palmer as of October 8th, 2002 are the seven boxes**  
19 **that we see off to the left?**

20 A. I think that should be made a little  
21 clearer.

22 **Q. Okay. Help me out.**

23 A. These people worked at Palmer on a daily  
24 basis. But almost any given day, there was a doctor  
25 or someone brought in to help do meds or -- or not

Page 24

1 meds -- but sick call or maybe to see a particular  
2 inmate about a particular issue that the PAs were  
3 referred to. So I don't know how you want to ask that  
4 question. But the ones that were actually assigned on  
5 a daily basis to Palmer are these people in this  
6 chart.

7 **Q. Okay. And it looks like from this chart two**  
8 **of the people that were assigned were mental health**  
9 **clinicians, correct?**

10 A. That is correct.

11 **Q. Two were PAs, correct?**

12 A. Correct.

13 **Q. You have three nurses --**

14 A. Three nurses.

15 **Q. -- that were assigned on a daily basis, and**  
16 **a fourth one vacant, right?**

17 A. I think we've got one, two -- yeah, three  
18 nurses and a fourth one vacant is correct.

19 **Q. And then the far left box, Able and Huffman,**  
20 **if I'm reading that --**

21 A. Yeah. These individuals had nothing to do  
22 with medical. They're kind of shot out here on this  
23 dotted line, because they didn't actually work for me.  
24 This was the Alaska Correctional Industries people.  
25 And so they're out there simply because they kind of

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1 fall under the same umbrella as medical. I don't  
2 really directly supervise them.

3 **Q. They weren't medical staff?**

4 A. They had nothing to do with medical, no.

5 **Q. All right.**

6 A. And they answer to somebody in Los Anchorage  
7 here so --

8 **Q. So really, what we're looking at in terms of**  
9 **the daily medical staff that was assigned to PCC are**  
10 **those five boxes that we've just gone through,**  
11 **right --**

12 A. Right.

13 **Q. -- two mental health clinicians and two PAs**  
14 **and four nurse positions.**

15 A. Yeah.

16 MS. KAMM: I think it's six boxes.

17 BY MR. MATTHEWS:

18 **Q. Six boxes.**

19 A. That's correct, assuming that this org chart  
20 was accurate at that particular time, yes.

21 **Q. Do you have any reason to think it was not?**

22 A. Well, I told you a little bit ago, we change  
23 them about every six months. So it depends on the  
24 lapse of time there. And I couldn't even begin to  
25 tell you how close we are to that. It's conceivable

7 (Pages 22 to 25)

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1 one of these nurses was gone and another one was  
2 there, you know. I really couldn't tell you. It's  
3 been too long.

4 **Q. Are these -- are the old org charts kept in**  
5 **some fashion as part of the records?**

6 A. I don't know the answer to that. Possibly,  
7 but I don't know for sure.

8 **Q. Okay. This is the only one I've seen.**  
9 **That's why I asked the question.**

10 Let me ask you this, if I can: During 2002,  
11 during the time that Charlie Davis was at Palmer, are  
12 you aware of any other medical personnel other than  
13 those listed on this org chart who were assigned to  
14 Palmer on a daily basis?

15 A. Assigned on a daily basis?

16 **Q. Yes.**

17 A. Other than the doctors that come in two,  
18 three times a week, no.

19 **Q. Do you know in 2002 who the doctors were**  
20 **that were coming in on a regular basis?**

21 A. I'd have to look at -- I know Holloway.  
22 There was a Lupan. There was -- I don't know. There  
23 was like four or five different doctors. And then  
24 another thing that would frequently occur -- and this  
25 would happen several times a week -- inmates would be

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1 transferred -- or not transferred -- but taken to  
2 doctors' offices.

3 So if an inmate had a particular issue, say  
4 it's an ear, nose and throat issue, an appointment  
5 will be made. The transportation staff will take him  
6 to his appointment and bring him back. So in addition  
7 to care at the facility and doctors coming into the  
8 facility, it was not -- it was very common for inmates  
9 to leave on a daily basis to go to medical  
10 appointments all the way to Anchorage.

11 MS. KAMM: Can you tell me who the doctors  
12 are that he identified?

13 (Record read.)

14 THE WITNESS: Kiester. There's a Kiester,  
15 Dr. Kiester. K-e-i-s-t-e-r.

16 MR. MATTHEWS: Try it this way. Mark that  
17 the next one.

18 (Exhibit 2 was marked.)

19 BY MR. MATTHEWS:

20 **Q. If you would take a look at the second page**  
21 **of what we've marked as Exhibit 2, there's an**  
22 **interrogatory there, number three, asking about**  
23 **doctors.**

24 A. Uh-huh.

25 **Q. And there's a list of names there --**

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1 A. Right.

2 **Q. -- including Scott Kiester.**

3 A. Yes. Billman.

4 **Q. Holladay?**

5 A. Holladay and Christensen, right.

6 **Q. Are you aware of any other physicians?**

7 A. There were, but I couldn't recall. It

8 was --

9 **Q. While we're on these discovery requests**  
10 **we've marked as Exhibit 2, is that a document you're**  
11 **familiar with?**

12 A. This document here?

13 **Q. Yes.**

14 A. Yes.

15 **Q. This is an unsigned copy that we were**  
16 **provided. Housekeeping matter, have you signed --**

17 A. I believe I did some time back.

18 **Q. Did you? Maybe I just did not locate the**  
19 **signature page when I was looking.**

20 A. My copy, is it signed? Was that a question?

21 **Q. My question is, did you ever sign that**  
22 **document at any point?**

23 **You've got the signature page?**

24 MS. KAMM: Yes.

25 THE WITNESS: You do have it?

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1 MR. MATTHEWS: May I take a look at yours?

2 MS. KAMM: Sure.

3 MR. MATTHEWS: Why don't we just go off the  
4 record for a minute?

5 (Brief recess.)

6 (Exhibit 3 was marked.)

7 BY MR. MATTHEWS:

8 **Q. While we were off the record, we've located**  
9 **the signature page that appears to be for you. And**  
10 **we've now marked that as Exhibit 3; is that right?**

11 A. That is correct.

12 **Q. And that bears your signature?**

13 A. That sure looks like it to me.

14 **Q. And it looks like you signed that page on**  
15 **the 28th day of January 2005, right?**

16 A. Correct.

17 **Q. And to the best of your knowledge, does that**  
18 **signature page go with the interrogatories which we've**  
19 **marked as Exhibit 2?**

20 A. To the best of my knowledge, that is  
21 correct.

22 **Q. Turning back to the org chart for just a**  
23 **moment, in terms of the medical side of the staff, who**  
24 **would be responsible on a daily basis for overall**  
25 **medical care of the inmates? Is there any one**

8 (Pages 26 to 29)

Exhibit 15

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1 individual who would be in charge?

2 A. I really don't know how to answer that. I  
3 know that Hughes and Hale were the two PAs. I would  
4 have to say those two. Now, they work a week on and a  
5 week off, because they cover 12 hours. And so I  
6 couldn't answer specifically. Maybe Mel Henry or the  
7 people -- but I would say if I had to give you an  
8 answer, it would be Hale and Hughes and not one or the  
9 other. They were equals, as I understood.

10 Q. They didn't work at the same time, right?

11 A. No.

12 Q. So Hale and Hughes were working 12-hour  
13 shifts what, seven days a week?

14 A. Yes.

15 Q. And that shift would have run during the  
16 daytime?

17 A. They would have been there daytime hours,  
18 correct. And I don't know what the specific hours  
19 were.

20 Q. 7:00 to 7:00 or something like that?

21 A. Yeah, something like that.

22 Q. And how about the nurses that are listed  
23 underneath there, do you know what kind of shifts they  
24 would have run?

25 A. You know, medical staff changed a couple of

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1 times. And I'm not sure. But as what I remember is  
2 they also worked a week on and a week off. So there  
3 was a nurse there for 12 hours. And then there was --  
4 there were -- and I don't know exactly what their  
5 hours were.

6 Q. During 2002 can you tell me how many medical  
7 staff would typically be on duty during the daytime?

8 A. During the daytime? That building was a  
9 good ways from my office. Usually when I would go  
10 over there, you would always see a PA during the day,  
11 at least one nurse. And, of course, the dental people  
12 was right adjacent to them. There would usually be  
13 two dental people there.

14 Q. So a PA and a nurse --

15 A. So you'd see -- as a rule, you'd see a nurse  
16 and a PA.

17 Q. How about during the nighttime hours?

18 A. During the nighttime hours, it was my  
19 understanding that they had their shifts set to where  
20 they could do the last med pass; however, there were  
21 some inmates that might have had meds later in the  
22 evening. And it's my understanding that in some  
23 cases, inmates were allowed to carry these meds and do  
24 self-administration of their own drugs.

25 And probably in some cases -- and I don't

1 know which ones -- the officers might pass out already  
2 packaged and -- you know, this inmate gets this out of  
3 this packet at this time. And those officers had some  
4 training to do that. Every officers didn't do it.

5 There was only a few that had that specific training  
6 to handle that in the times when medical wasn't there.

7 Q. Are you talking about correctional officers?

8 A. Correct.

9 Q. Do you know who the correctional officers  
10 were that had that training during 2002?

11 A. I wouldn't try to guess. It's too far.

12 Q. Were those officers who reported to you?

13 A. They reported to their shift supervisor who  
14 reported to the assistant superintendent who reported  
15 to me.

16 Q. So typically, then, during 2002, was there a  
17 medical person on duty during the evening hours,  
18 nighttime hours?

19 MS. KAMM: And what are the nighttime hours?

20 BY MR. MATTHEWS:

21 Q. 7:00 p.m. to 7:00 a.m.

22 A. There was a period of time when there was  
23 not medical people on-site. Okay. I don't know what  
24 time that was. I don't know what their hours were.

25 Couldn't even begin to guess. But there was a period

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1 of time where if there's an emergency, you need to  
2 call the ambulance or the PAs were on-call, you know,  
3 they -- they had a State car and were to, boom, here  
4 we come. So that was how it was done.

5 Q. Who set those shifts?

6 A. I'm -- I have to assume. And I do not know  
7 the answer to that. I assume Mel Henry. It certainly  
8 wasn't me.

9 Q. Is it fair to say then that during a 24-hour  
10 day, typically, during 2002, there was a period of  
11 time where there was no medical person physically  
12 on-site?

13 A. Physically on-site?

14 Q. Physically on-site.

15 A. That is probably correct.

16 Q. The daytime hours would be predominantly  
17 covered, but not the night?

18 A. The daytime hours, there would be somebody  
19 there, yes.

20 Q. But during the nighttime hours --

21 A. And I do know that even through that last  
22 pill pass at like 6:00, you know, around meal time,  
23 they were there. What time that they left, I do not  
24 know.

25 Q. And that was -- that would be a better

9 (Pages 30 to 33)

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1 question for Mel Henry?

2 A. Exactly. Because I could try to answer  
3 something regarding their staffing and stuff, it would  
4 be in error. I really -- because they didn't work for  
5 me specifically, there was a lot I did not know.

6 Q. And that's fair enough. I'm not looking for  
7 your guess. Just if you know the answer, please tell  
8 me.

9 You mentioned that there were some of the  
10 COs who were trained to give out medication.

11 A. Yes.

12 Q. And you don't know the names, offhand?

13 A. I don't have a clue.

14 Q. Do you know what training they had?

15 A. The -- I believe they got the training from  
16 the people at Central, the pharmacists, et cetera,  
17 et cetera, who would actually know how to do this.  
18 And that's an assumption on my part. But I do know  
19 they received training. And I'd have to say I don't  
20 know who did it, who did the training. I would assume  
21 it was the Central people.

22 Q. Or what it consisted of?

23 A. Or -- I don't know what it consisted of. I  
24 have no idea.

25 Q. Again, do you think that's a better question

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1 to ask Mel Henry?

2 A. Absolutely.

3 Q. Let me ask you about Charlie Davis. Do you  
4 remember Mr. Davis?

5 A. I remember Mr. Davis.

6 Q. Do you remember what contact you  
7 individually had with Mr. Davis?

8 A. I remember seeing him on the grounds. And  
9 the reason I remember him -- and I could be in error.  
10 It could be someone else. But I remember an  
11 individual who had a cane. And never had a problem  
12 with him or anything of that nature. But an inmate  
13 with a cane kind of sticks out in my mind.

14 Q. And you're assuming that that's Mr. Davis?

15 A. I have to assume that, yes.

16 Q. Why is it that you make that assumption?

17 A. Because that's -- that's in my memory as of  
18 four years ago. And you have to remember, you know, I  
19 got 500 inmates there. Does this one have a hangnail?  
20 Does this one have this? Does this one have that?  
21 When you go around inspections on Friday, that's when  
22 you actually get to see the prisoners and have  
23 interactions with them. The rest of the time, the  
24 administration building is, you know, a couple blocks  
25 away from the facility.

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1 So a superintendent's contact, actual  
2 contact with a prisoner, you would have to actually go  
3 to, whether it be medium facility or minimum facility,  
4 to have contact. And usually, I would have some  
5 contact with different prisoners on Friday. And that  
6 was during the inspection.

7 Q. Just so that I'm clear in understanding, you  
8 said that there's medium facility and a minimum  
9 facility.

10 A. Right.

11 Q. I take it Palmer is structured -- there are  
12 physically different buildings on the grounds, right?

13 A. Yes, yes.

14 Q. And what are those different buildings  
15 called?

16 A. Okay. There's the administration building.  
17 And it is -- is by itself. Then there's Palmer  
18 Minimum, which consists of a number of buildings.  
19 It's an area that is not fenced. There are minimum  
20 custody inmates. And there's -- with minimum comes  
21 several shops, you know, for prisoners to work in,  
22 auto shops, the ACI shop that we talked about up here  
23 in this org chart, the living -- big living unit. And  
24 then there was what we called the program building  
25 where the cafeteria, education, medical, all these

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1 different areas was.

2 And then within the confines of the fence  
3 was the medium facility. And there were -- it was --  
4 it was made up of seven houses. And in the main  
5 building, which had the gym, the dining room,  
6 et cetera, medical and so -- there was numerous  
7 buildings. I'd have to sit here and -- there's a lot  
8 of them.

9 Q. Your office was in a separate administration  
10 building, right?

11 A. I was in the administration building, yes.

12 Q. Was that inside or outside the fence?

13 A. Outside the medium fence. Minimum doesn't  
14 have a fence.

15 Q. Where was Mr. Davis housed?

16 A. They all go to medium when they first  
17 arrive. And once again, I may not be sure who  
18 Mr. Davis is. I believe -- and you can't hold me to  
19 this -- I believe he also went to minimum as well --

20 Q. Okay.

21 A. -- from medium, which would be a  
22 progression, you know, if your custody allows it. You  
23 always go to medium until we get to know a little bit  
24 about the prisoner and make sure he's not the new  
25 Charles Manson or something. And then if they are

10 (Pages 34 to 37)

Exhibit 15

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1 doing fine, then as the classification merits, they  
2 can go on across the street.

3 **Q. So your memory of Mr. Davis, if it's the**  
4 **person you're thinking of, is seeing him out in the**  
5 **yard walking with a cane.**

6 A. That's the memory that I have of Mr. Davis,  
7 if I'm correct.

8 **Q. The individual that you are picturing, can**  
9 **you describe him other than a cane?**

10 A. Sandy hair, if I remember correctly.  
11 Probably about my height. Wasn't a very large fellow.

12 **Q. How tall are you, just so we're clear?**

13 A. Five seven and a half, maybe, five eight.  
14 Seems like he might have walked with a limp. That's  
15 about the best I can do for you.

16 **Q. Beard, facial hair?**

17 A. Don't know. Don't know.

18 **Q. Other than the observation of an individual**  
19 **with a cane, do you remember any individual contact**  
20 **that you had with Mr. Davis?**

21 A. I don't recall any contact with Mr. Davis  
22 other than just seeing him in the yard and when he  
23 filled out the grievance, you know, and --

24 **Q. Which we'll get to in a moment.**

25 A. That's probably about it. We could have had

1 through. Each room is graded. And how long they  
2 would keep those, I don't know.

3 **Q. If you had contact with an inmate during**  
4 **that inspection process --**

5 A. Would it be written down?

6 **Q. Yes.**

7 A. No.

8 **Q. If an inmate raised questions or problems**  
9 **with you during that inspection, would that be written**  
10 **down?**

11 A. No.

12 **Q. And I take it as you sit here today, you**  
13 **don't have any specific memory of talking with Charlie**  
14 **Davis during an inspection.**

15 A. I do not have a specific memory of talking  
16 to Mr. Davis, no.

17 **Q. You mentioned earlier that you have roughly**  
18 **500 inmates at Palmer.**

19 A. Uh-huh.

20 **Q. Is that a pretty steady population number?**

21 A. Let's see. Let's get the actual number,  
22 since we want to be accurate here. There was 176 and,  
23 oh, around 250 to 270. What's those two numbers add  
24 up to? Some math wizzard here.

25 **Q. Looks closer to four and a quarter to me.**

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1 some contact. Because, usually, when you're doing  
2 your inspections, you know, all the inmates -- they  
3 call it leg time, you know, that they -- it's, you  
4 know, how about my furlough? How about this? How  
5 about that, you know? It's not uncommon to be  
6 approached by an inmate. And I like to talk to  
7 inmates and hear their side of things. So whether I  
8 did with him, I do not know.

9 **Q. Explain the inspections to me then, so I**  
10 **understand that.**

11 A. An inspection, on Friday, to maintain  
12 cleanliness in the facility, the superintendent would  
13 go throughout the entire facility, each and every  
14 room, and make sure that the cleanliness standards  
15 were being adhered to.

16 And we kind of made a contest out of it. So  
17 the house that wins gets whatever, you know, ice cream  
18 or something like this. And it kind of became a  
19 competitive thing with the inmates, you know, to keep  
20 their house clean. But an inspection was to go  
21 throughout the whole facility.

22 **Q. And I take it there are records kept of**  
23 **those inspections. Do you make notes as you're going**  
24 **through, anything like that?**

25 A. Yes. You make notes as you're going

1 A. Okay. Let's say four and a quarter.

2 **Q. Okay. And 176 and 250 to 270, explain what**  
3 **those numbers are.**

4 A. Okay. One seventy-six was the population at  
5 the minimum facility. That was capacity. And the  
6 medium facility could fluctuate.

7 **Q. Between 250 and 270; is that correct?**

8 A. That is correct.

9 **Q. What was capacity for the medium facility?**

10 A. About 270. That's a difficulty. Because,  
11 you know, do you count the seg beds? Do you count  
12 whatever? But actual housing unit beds, about 270.

13 **Q. And when you say "seg beds," what is that?**

14 A. Segregation unit, there was ten there. And  
15 then there's another issue that was the medical  
16 infirmary. And they had four beds. In Corrections,  
17 we count beds.

18 **Q. Okay. How many total beds did you have at**  
19 **Palmer? Sounds like about 450.**

20 A. Yeah, about 450.

21 **Q. Okay. When an inmate first comes into**  
22 **Palmer, do they have any kind of interaction directly**  
23 **with you, an interview or anything like that?**

24 A. No. That's not even real to think that.

25 There was a time -- in fact, about this time, the

11 (Pages 38 to 41)

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1 turnover was like -- the average stay was 15 days.

2 **Q. At Palmer?**

3 A. At Palmer at that particular time. It  
4 was -- it was really busy. And we'd receive 20, 30  
5 inmates a day. And then -- and they'd be replacing  
6 inmates who had been furloughed or being released.  
7 And to see 30 inmates a day and be a superintendent,  
8 that's not real.

9 **Q. Why was the turnover so high during that**  
10 **time period?**

11 A. At that particular time, if I remember  
12 correctly, it's just before the Anchorage Jail opened.  
13 And we were kind of backed up. And as soon as the  
14 jail opened, that housing crisis subsided. But this  
15 is just before it was -- it was the population, the  
16 prison population was so large.

17 **Q. Is it fair to say that Palmer at that time**  
18 **was being used as a pretrial facility?**

19 A. There were pretrial inmates at Palmer, but  
20 we housed them separately. Remember, we had  
21 individual housing. We would have to house them  
22 separately.

23 **Q. Okay.**

24 A. But yes, we were accepting overflow from the  
25 pretrial facilities. And that would account for the

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1 high turnover.

2 **Q. That was what I was wondering. I mean, when**  
3 **you were talking about 15 days, that doesn't seem --**

4 A. It was just -- it was just wild.

5 **Q. At some point Mr. Davis filed a grievance,**  
6 **correct?**

7 A. Correct.

8 **Q. And you were involved in that grievance**  
9 **process in some way?**

10 A. I am the one, as the acting superintendent,  
11 who would look at the investigator's findings and then  
12 make my comments before it's returned to the inmate.

13 **Q. Would that be true for all grievances?**

14 A. Yes.

15 **Q. How many grievances do you typically**  
16 **process?**

17 A. Oh, there are some inmates that will file  
18 one every day. There's some inmates that will file  
19 three a day. And you take 400 inmates, you know, it's  
20 really -- two or three inmates can file 15 grievances  
21 a day.

22 But as a rule, we didn't have that many.  
23 Probably -- seems like I'd probably look at ten, maybe  
24 ten a month.

25 **Q. Okay. Does Mr. Davis' grievance stand out**

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1 **for you in any way --**

2 A. (Witness shakes head.)

3 **Q. -- other than the fact that you're here**  
4 **today?**

5 A. Other than that I'm here today, had to get  
6 up early, no.

7 **Q. Explain the grievance process from your**  
8 **perspective then to me.**

9 A. Okay. A prisoner who has a grievance, the  
10 first thing he does is he files a cop-out, which is an  
11 informal grievance or an informal request. He has a  
12 problem. You know, his food wasn't hot enough or  
13 whatever. So he fills this out. And it goes to the  
14 staff, who would -- it would be, you know, their  
15 issue. And they will write on their cop-out and  
16 return it to him. Okay?

17 If he's not satisfied with that, then his  
18 next step would be a grievance. And he would complete  
19 the grievance. The grievance monitor or compliance  
20 sergeant would pick up this grievance. The grievance  
21 is logged. And then the compliance sergeant would  
22 assign an investigator to the grievance.

23 In a case of a medical grievance, it would  
24 go to medical staff. None of the COs could address  
25 these medical issues. So it would go to the medical

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1 staff. They would address the grievance. And there's  
2 a time frame in here. And I couldn't recall what  
3 these time frames are. But there's time frames that  
4 we have to respond and get the grievance back to the  
5 prisoner.

6 Then the grievance goes -- after the  
7 investigation, the compliance sergeant picks it up.  
8 He brings it to me. And then from there, the prisoner  
9 will look at the grievance and he's satisfied -- you  
10 know, it may be something that -- you know, a lot of  
11 them are frivolous, you know, and it doesn't go  
12 anywhere. But there's some that, well, maybe we  
13 should look at this. So changes would be made or  
14 whatever. Or a particular inmate's issue is  
15 addressed.

16 The inmate will review the grievance after  
17 everyone has done their thing. And he will either,  
18 I'm satisfied, or he wishes to appeal what we have  
19 stated. And if he wishes to appeal, then an appeal  
20 statement is filed to the director, or in the case of  
21 medical, to the medical people at Central Office. And  
22 then they would make their ruling or investigation,  
23 whatever you choose to call it. And then it would  
24 come back to the prisoner.

25 If the prisoner is still unhappy with this,

12 (Pages 42 to 45)



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1 thus we're here. It goes to court. He can go to  
2 court with it.

3 **Q. So your involvement in the process would be**  
4 **after the grievance is filed, beyond the cop-out**  
5 **stage, right?**

6 A. Uh-huh.

7 **Q. So if the cop-out resolves it, you don't get**  
8 **involved at all.**

9 A. Exactly. If the prisoner is happy and  
10 something was wrong, it's fixed, all is good.

11 **Q. If it goes to the grievance, you review**  
12 **every grievance that's filed.**

13 A. I review every grievance that's filed, yes.

14 **Q. And the compliance officer would be the one**  
15 **who would assign it in the initial instance for**  
16 **investigation.**

17 A. Right.

18 **Q. Right? Do you remember, as you sit here**  
19 **today, your involvement in Mr. Davis' grievance?**

20 A. I -- I -- I remember, you know, when I seen  
21 the grievance, I -- I remember the grievance. And,  
22 you know, a lot of times, you'll deal with the  
23 grievance or whatever, the responses are made, it's  
24 all resolved and you've never seen the inmate. You're  
25 dealing with a piece of paper.

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1 **Q. So in terms of your specific memory today,**  
2 **you remember that there was a grievance. Do you**  
3 **remember the specifics of it at all?**

4 A. Well, I've looked at the grievance recently.  
5 That could cloud my -- but I think I do remember the  
6 grievance.

7 **Q. Okay. When did you look at the grievance**  
8 **recently?**

9 A. Actually, when I received this to sign, I  
10 started looking to find out what in the world have I  
11 done, you know. And I probably looked at it then.  
12 And then -- and then I thought this was resolved. And  
13 so then I've looked at it again recently in the last  
14 couple days, because we're here.

15 **Q. Just so that I'm clear, you were pointing at**  
16 **some papers. So you looked at the grievance, it looks**  
17 **like, around the time that you signed the**  
18 **interrogatory responses in January of 2005.**

19 A. Correct.

20 **Q. And then more recently, just in getting**  
21 **ready for the deposition.**

22 A. Uh-huh.

23 **Q. Is that right?**

24 A. That is correct.

25 (Exhibit 4 was marked.)

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1 MR. MATTHEWS: Let me show you what we've  
2 marked as Exhibit 4.

3 THE WITNESS: Can we take a short break  
4 before we go on to Exhibit 4?

5 MR. MATTHEWS: Sure. Off record.

6 MS. KAMM: I could use a break, too.  
7 (Brief recess.)

8 BY MR. MATTHEWS:

9 **Q. We've put in front of you, Mr. Hyden,**  
10 **Exhibit 4. Ask you if you recognize that document.**

11 A. Okay. Yeah. Exhibit 4 is the grievance  
12 filed by Charlie Davis.

13 **Q. And this exhibit consists of four pages,**  
14 **which I think is taken from the entire grievance**  
15 **packet. What I want to see if I can understand is**  
16 **what your part in that grievance was.**

17 A. Okay. Briefly, the prisoner writes down his  
18 grievance, which he -- he has done so. And then he  
19 requests what his relief is. And he has done so.  
20 It's dated and it's signed. And then Mr. -- or the  
21 compliance sergeant would assign it to someone to  
22 investigate.

23 In this case, it appears it had been  
24 assigned to Mr. Hale. And Roger Hale had -- what it  
25 states is "The issue of manning/staffing cannot be

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1 addressed at this level. I spent about 20 minutes  
2 explaining how he can access medical (that is not  
3 (sic) available at PCC)." And that was Mr. Hale's  
4 response.

5 After Mr. Hale would have responded, the  
6 compliance sergeant would get the grievance and bring  
7 it to me for my review. And I would review the  
8 grievance, look at Mr. Hale's response and then write  
9 down my findings.

10 I'm not a medical person. I have to depend  
11 heavily on what medical tells me. So thus, I wrote  
12 "The above investigation does not address the  
13 prisoner's grievance. Perhaps prisoner should be  
14 transferred to facility with full time medical staff  
15 to accommodate 'life threatening' condition." That  
16 was my response.

17 And then after that, the prisoner would  
18 review it. Now, this grievance has some alter- -- is  
19 altered to the one that I had. Whether he was  
20 satisfied, et cetera, is not on the one I have. And  
21 the last block where it says I am satisfied with  
22 response or not, this one is not completed at all.

23 **Q. And you're looking at the second page of**  
24 **Exhibit --**

25 A. The second page, right.

13 (Pages 46 to 49)

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1 Q. -- of Exhibit 4, the bottom block that says  
 2 "Prisoner's Response"?  
 3 A. Right.  
 4 MR. MATTHEWS: I don't have the original of  
 5 this, so --  
 6 MS. KAMM: I think I've got the original.  
 7 I'll take a look at it when I get back to the office.  
 8 MR. MATTHEWS: Okay.  
 9 MS. KAMM: I'll fax it to you if we've  
 10 got --  
 11 THE WITNESS: And I would have to assume the  
 12 original is going to be checked, I do intend to appeal  
 13 to the Director of Institutions or Medical Director,  
 14 which that was done. And then page three of what  
 15 we're looking at here is the Prisoner Grievance Appeal  
 16 Statement. And this would be what the prisoner wrote  
 17 to the medical director. And then the medical  
 18 director's response is the last page.  
 19 BY MR. MATTHEWS:  
 20 Q. Okay. Is it fair for me to conclude that  
 21 your involvement, your specific involvement in this  
 22 grievance, would have been to review Mr. Hale's  
 23 findings and determination and to sign off on the  
 24 grievance as you did on the second page?  
 25 A. That is correct.

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1 Q. You made the comments that the investigation  
 2 did not address the grievance and perhaps he should be  
 3 transferred to a different facility, right?  
 4 A. Correct.  
 5 Q. Beyond that, did you have any involvement in  
 6 this grievance?  
 7 A. None. Now, there could have been a time  
 8 when in one of these meetings, Mr. Davis' issues, I  
 9 would have been made aware of his issues. Probably --  
 10 I don't know when the time frame was when I was made  
 11 aware of his -- if I receive a prisoner at medium, I'm  
 12 not aware that he has a bypass or a defibrillator or  
 13 anything of this nature until someone makes me aware  
 14 of it. And I would assume that probably about the  
 15 time this grievance was filed is when I would have  
 16 been made aware of Mr. Davis' issues with medical.  
 17 Q. Is it fair to say that Mr. Davis' grievance  
 18 was for inadequate medical care?  
 19 A. I -- I disagree with that.  
 20 Q. You disagree that that's what he was  
 21 complaining about?  
 22 A. Say the question again. Maybe I  
 23 misunderstood you.  
 24 Q. Is it fair to say that Mr. Davis' grievance  
 25 was essentially that he didn't like the medical care

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1 he was getting at Palmer, didn't think it was  
 2 adequate?  
 3 A. He -- he probably thought that, yes.  
 4 Q. Okay. I'm not asking whether you agree that  
 5 the care --  
 6 A. Okay. Yes.  
 7 Q. -- was inadequate.  
 8 A. Because in my opinion, the grievance is very  
 9 confusing. Okay?  
 10 Q. All right. Let me ask you this then: How  
 11 did you interpret Mr. Davis' grievance when you  
 12 received it?  
 13 A. Well, I read it and I was like -- I  
 14 really -- you know, because there's a number of things  
 15 you could read into this. And I read it. And then I  
 16 read what Mr. Hale had -- you know, who had talked to  
 17 him for several minutes. And I -- I thought -- I  
 18 thought Mr. Hale should have been a little more  
 19 specific in these times, actually put something  
 20 specific down here. This is the reason that I wrote  
 21 what I wrote.  
 22 To me as a superintendent, to say I spent 20  
 23 minutes how he could access medical in a document like  
 24 this, I would like to see written out, you do this,  
 25 you do this, you do this and you do this. Okay? And

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1 that wasn't done. So that was thus part of my  
 2 response.  
 3 Q. Your conclusion was that the -- that  
 4 Mr. Hale's response was inadequate.  
 5 A. Yes. I wanted him to give -- because if a  
 6 prisoner files a grievance -- and I might add here, I  
 7 was the compliance sergeant at Mat-Su Pretrial and  
 8 dealt with these regularly. So I'm very familiar with  
 9 the grievance process.  
 10 I just really like -- when an inmate is  
 11 upset enough to file a grievance, address his issues.  
 12 If they're frivolous, they're frivolous. But address  
 13 his issues in that grievance. And I just would like  
 14 to have seen specific things written out, you know,  
 15 rather than I spent 20 minutes talking to him.  
 16 Q. You didn't feel Mr. Hale's response  
 17 addressed the grievance; is that true?  
 18 A. That's what I felt at the time, yes.  
 19 Q. And your suggestion was that perhaps  
 20 Mr. Davis should be transferred to a different  
 21 facility that had full-time medical care to  
 22 accommodate his life-threatening condition.  
 23 A. Possibly. And I put life-threatening  
 24 because -- and I'm going to assume here that at that  
 25 time I wasn't totally aware of Mr. Davis' issue,

14 (Pages 50 to 53)



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1 because I put life-threatening in parentheses -- or  
2 quotation marks.

3 But actually, basically, I'm probably  
4 inviting medical to look at this. And if this inmate  
5 really feels this strongly, does he need to go to the  
6 Anc Jail where there's a medical unit or something.  
7 And if they feel he does not, they're the medical  
8 staff. I'm not. It's their call.

9 **Q. So once you make the suggestion that the**  
10 **investigation that had been done to that point was**  
11 **inadequate, does it go back to Mr. Hale for further**  
12 **findings?**

13 A. No.

14 **Q. Why not?**

15 A. Because in the process, it goes to  
16 Mr. Hale's boss, the medical director. If what you  
17 just asked, grievances would be bouncing around all  
18 the time and we'd never get anywhere. So there has to  
19 be a click, click, click, you know, the grievance  
20 process is this. So, you know, it goes to Mr. Mel  
21 Henry in this particular case. And then he gets the  
22 final medical word on it.

23 **Q. So whose decision is it to -- as to whether**  
24 **or not Mr. Davis stays at Palmer or is transferred to**  
25 **another facility?**

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1 A. Okay. It would be my decision if it was a  
2 security issue. Okay? If -- for example, if  
3 Mr. Davis is beating up other inmates or doing  
4 whatever and we find that in that particular  
5 environment he cannot be controlled adequately, that  
6 would be a security issue. And that would -- I  
7 would -- you know, we need to look at classifying him  
8 to a more secure setting.

9 In an issue with medical, I'm not a medical  
10 person. I can't set here and say, well, I think his  
11 medical issues are whatever. Transfer him. He would  
12 be transferred by the medical people and it would be a  
13 medical transfer.

14 **Q. So essentially, once you're done with this**  
15 **grievance, you're done.**

16 A. I'm done.

17 **Q. Because it's a medical grievance.**

18 A. I'm done. And I wanted them to look at it  
19 carefully. Make sure you make the right decision.  
20 And I'm done.

21 **Q. Did you ever follow up to see what action**  
22 **had been taken?**

23 A. I was too busy.

24 **Q. So I take it that's a no.**

25 A. That's a no.

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1 **Q. Did you know what response was made to**  
2 **Mr. Davis' grievance after you signed off on it on**  
3 **June 27th, '02?**

4 A. To be honest with you, I can't tell you  
5 whether I reviewed this when it came back or not. I  
6 do not know.

7 **Q. And you're talking about the appeal portion.**

8 A. The appeal from Mr. Mel Henry.

9 **Q. So once Mr. Davis files his grievance, you**  
10 **make your findings and recommendation, off it goes to**  
11 **medical and you're done with it; is that fair?**

12 A. In a medical situation, yes.

13 **Q. You don't have any practice of following up**  
14 **to see whether or not your recommendations or**  
15 **suggestions were followed.**

16 A. If I -- I would have a practice of doing so  
17 if I felt it was warranted.

18 **Q. Do you know --**

19 A. If I feel medical has this under control --  
20 because they're the medical professionals. I'm not.  
21 I have to trust them. If they tell me everything is  
22 okay, inmate's needs are being met, they are the  
23 medical professionals. I'm not. I can't second guess  
24 them.

25 **Q. Did you get a report back from medical on**

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1 **Mr. Davis after that?**

2 A. I don't recall.

3 **Q. Do you know whether or not Mr. Davis felt**  
4 **that his medical needs were being met after this**  
5 **grievance was filed?**

6 A. I didn't hear anything else about it, to my  
7 recollection. So I have to assume that he was okay.

8 **Q. Mr. Davis was 70 years old at the time this**  
9 **grievance was filed?**

10 A. Okay.

11 **Q. Do you know?**

12 A. I don't have a clue.

13 **Q. Any idea how old he was?**

14 A. I thought he was about 45.

15 **Q. The individual that you described earlier**  
16 **with the cane in the yard appeared to you to be about**  
17 **45?**

18 A. It's so long ago. He didn't seem to be 70  
19 years old, if it's the person I'm thinking of.

20 **Q. When Mr. Davis arrived in Palmer, at PCC, he**  
21 **had an implanted defibrillator. Were you aware of**  
22 **that?**

23 A. No. There would be a point in time when I  
24 would be aware, but it wouldn't be at his arrival, no.

25 **Q. Were you aware of that at the time he filed**

15 (Pages 54 to 57)

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1 his grievance?

2 A. Seems like it states so in the grievance.  
3 And what kind of briefing I could have had from  
4 medical regarding this, you know -- because I feel  
5 certain that medical talked to someone, probably in  
6 one of these meetings, about this individual and  
7 closely monitoring him. But I can't -- it's been too  
8 far back. I can't recall.

9 **Q. When you say "these meetings," are you**  
10 **talking about your daily briefings?**

11 A. Correct.

12 **Q. Prior to Mr. Davis' grievance, did you know**  
13 **what an implanted defibrillator was?**

14 A. Uh-huh.

15 **Q. And how did you have that knowledge?**

16 A. My ex-wife was a nurse. I knew quite a bit  
17 about that.

18 **Q. Did you understand that a person with an**  
19 **implanted defibrillator by definition had a serious**  
20 **heart condition?**

21 A. Well, I would say my medical knowledge, I  
22 have no formal training in medical. I -- I can't say  
23 that I would understand anything about medical. I  
24 haven't been trained in any medical other than CPR and  
25 whatever. But vaguely, yeah, you'd have to assume if

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1 someone has something placed in their chest, yeah,  
2 it's serious.

3 **Q. Fair to say they would not have had the**  
4 **implant if it weren't serious?**

5 A. But also, I know people that have implants  
6 and they're out working jobs and stuff and everything  
7 is hunkey dorey. And they're doing whatever. So once  
8 again, I'm not a medical staff. I don't know what  
9 limitations a defibrillator could have. There's --  
10 because I know a couple people with these kind of  
11 things and they're living pretty much normal lives.  
12 So I can't second guess that, no.

13 **Q. Let me ask you this: At the time Mr. Davis**  
14 **filed his grievance, did you have any personal**  
15 **knowledge of what his medical condition was?**

16 A. At the time he filed the grievance, probably  
17 not.

18 **Q. In your response to his grievance, did you**  
19 **review any of his medical records to see what his**  
20 **condition was?**

21 A. I did not look at a medical record. What I  
22 would probably do if I did so, something of that  
23 nature, would be to call a PA, ask specific questions  
24 for specific answers, you know. And I would be much  
25 clearer on what I understood rather than go look at a

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1 medical record.

2 **Q. Do you know whether or not you called PA**  
3 **Hale --**

4 A. Don't recall.

5 **Q. -- in response to this grievance?**

6 A. I feel that we probably had some  
7 conversations regarding this individual, strictly  
8 because of the grievance and it's medical. But I  
9 can't recall those. It's been too long and too many  
10 inmates. And I mean, I can't -- I can't specifically  
11 remember.

12 **Q. Would your actions or conversations with**  
13 **Mr. Hale have been documented in any way?**

14 A. Probably the only documented thing would be  
15 the morning meetings. I can't -- every time I talk to  
16 someone about an inmate's hangnail, I don't go  
17 document that. That's just not real. I know what  
18 you're asking, you know, but it's -- no, it wouldn't  
19 have been documented other than what I would have  
20 wrote here. You know, if I called him prior to  
21 writing this -- and I don't remember a conversation.  
22 I'm sure there probably could have been one, but it's  
23 just too long ago and too much has happened.

24 **Q. So you just don't remember at this point.**

25 A. I don't remember at this point.

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1 **Q. Is it fair to say, Mr. Hyden, that after**  
2 **your written response to this grievance, you don't**  
3 **have any memory of taking any other action with regard**  
4 **to Charlie Davis?**

5 A. None.

6 **Q. Do you remember having any further contact**  
7 **with a PA to inquire about Mr. Davis' status?**

8 A. I don't recall anything.

9 **Q. Do you remember contacting anyone else on**  
10 **the medical staff to find out how Mr. Davis was doing?**

11 A. No. That's something that if there's a  
12 problem, they would come to me, you know. I can't --

13 **Q. Is it fair to say that unless a problem is**  
14 **brought to your attention, it's not something you're**  
15 **going to go seek out?**

16 A. Exactly.

17 **Q. So follow-up would not have been part of**  
18 **your routine.**

19 A. No. If they was having a problem or  
20 something, they would probably get ahold of me,  
21 et cetera. But to sit there and think, I wonder if  
22 this is working out, I should go check on this, you  
23 know, you may have all kinds of things going. No, I  
24 don't think I would have -- I would have waited for  
25 them, you know, to give me some kind of indication

16 (Pages 58 to 61)

Exhibit 15

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1 that there is a problem.

2 **Q. And waiting for them, meaning the medical**  
3 **staff?**

4 A. The medical staff, right. They're  
5 professionals, yes.

6 **Q. Do you know anything about the medical**  
7 **monitoring that was done or not done, as the case may**  
8 **be, of Charlie Davis while he was at Palmer?**

9 A. The medical monitoring what, of his --

10 **Q. Of his medical condition. I don't mean this**  
11 **to be a trick question. All I'm asking is, do you**  
12 **have any personal knowledge of what medical review,**  
13 **medical monitoring, anything like that?**

14 A. I can only say -- I can answer in a very  
15 general response. I do know that they were seeing him  
16 periodically for labs or different things of that  
17 nature. And I didn't hear that there was any  
18 problems. So -- but what specifically they done, what  
19 days, how much, et cetera, I'm not aware.

20 **Q. And is that information that you have**  
21 **learned because of this lawsuit or was it information**  
22 **that you were aware of at the time?**

23 A. Ask that whole question again, please.

24 **Q. Is that information that you were aware of**  
25 **at the time Mr. Davis was an inmate?**

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1 A. Yes. I would have to say so.

2 **Q. You've talked a number of times about the**  
3 **daily briefings, if I can call them that. Did you**  
4 **have any specific meetings just with medical staff?**

5 A. No.

6 **Q. So only as part of the daily --**

7 A. I mean, there might have been a -- something  
8 special has arisen and you want to meet with medical  
9 and you call them over to your office or something.  
10 But that was pretty rare. Usually, anything that we  
11 had could be addressed in the open floor meetings.

12 **Q. Who participated in those daily briefings,**  
13 **daily meetings?**

14 A. All the department heads, your medical  
15 staff, the shift supervisor, the person in charge of  
16 the kitchen. Every single department had a  
17 representative there. Probation.

18 **Q. How long would the meetings last, typically?**

19 A. Thirty minutes, probably. Sometimes longer.

20 **Q. Do you have any personal knowledge of what**  
21 **medications Mr. Davis was taking while he was in**  
22 **Palmer?**

23 A. Not at that time, I did not, no.

24 **Q. Do you know whether or not Mr. Davis was**  
25 **given a physical exam when he first arrived at Palmer?**

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1 A. I -- I wouldn't know. He could have. He  
2 could not have. I can only speak as a rule when a  
3 prisoner comes into the system, they're given a  
4 complete physical exam. And once again, at this  
5 particular time where we're having movement every 15  
6 days, you know, I would image -- they're interviewed  
7 by medical, you know, and things of this nature. But  
8 whether he was actually given a physical, I do not  
9 know.

10 **Q. When you say they're given a physical when**  
11 **they come into the system, so that means if somebody**  
12 **comes in at another facility, they might not**  
13 **necessarily be given a physical when they got to your**  
14 **facility if there's a transfer.**

15 A. Right. It's an intake physical. Make sure  
16 they don't have lice or some -- whatever. And that  
17 is -- because you're getting someone off the street.  
18 And so you need to really -- so a good physical is  
19 done at their initial intake. And then those medical  
20 records and everything that was done goes with them to  
21 wherever they would go.

22 **Q. Okay. Is it fair to say that unless the**  
23 **prisoner comes into PCC as their initial intake, they**  
24 **are probably not going to get a physical when they**  
25 **first arrive?**

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1 A. You know, once again, this is medical stuff.

2 I'm not familiar with how they do it. I would  
3 assume -- once again, I use the word "assume" -- if  
4 someone shows up and they've got some serious  
5 problems, I would assume there could be a physical to  
6 some degree or some kind of follow-up. Because what  
7 they've received from the intake facility would alert  
8 them to we need to take a look at this. But I don't  
9 know specifically, no.

10 **Q. But that's not -- as I understand it, that's**  
11 **not your area.**

12 A. No.

13 **Q. So that's going to be medical staff that**  
14 **would deal with that. It's not something that you as**  
15 **the superintendent are involved in; is that true?**

16 A. I'm not qualified to deal with that, no.

17 **Q. Okay. We talked a little bit earlier about**  
18 **dispensing of medications. And what I want to ask you**  
19 **about has to do with COs that are actually dispensing**  
20 **medications. Okay? As I understand the process,**  
21 **there are some instances where a prisoner is actually**  
22 **responsible for keeping their own medications and**  
23 **self-administering, if you will, true?**

24 A. True.

25 **Q. There are other medications which medical**

17 (Pages 62 to 65)

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1 staff or someone else within PCC has to dispense,  
 2 correct?  
 3 A. Correct.  
 4 Q. What I want to focus on is that second part.  
 5 Okay?  
 6 A. Okay.  
 7 Q. As I understand it, there are some instances  
 8 where those medications are dispensed by PAs or  
 9 nurses, medical staff, true --  
 10 A. True.  
 11 Q. -- if there's somebody there?  
 12 But there are other instances where, for  
 13 instance, in the evening, medications have to be  
 14 dispensed to prisoners, but there's no medical staff  
 15 person there to do it; is that true?  
 16 A. Correct.  
 17 Q. In those latter instances, the correctional  
 18 officer with some training may dispense the  
 19 medications, true?  
 20 A. True.  
 21 Q. What records are kept, to your knowledge, of  
 22 who dispenses the medication when it's not done by the  
 23 medical staff?  
 24 A. It should be on their med sheet any time any  
 25 meds -- meds are very strictly controlled,

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1 particularly in that atmosphere. A lot of times you  
 2 may want the prisoner to have a medication, but if he  
 3 goes out in population with this, they are going to  
 4 take it away from him, and especially if they think  
 5 they can get high on it, particular certain inmates.  
 6 And so I feel strongly -- and once again,  
 7 I'm just -- this is conjecture. I feel strongly if it  
 8 was some kind of very serious or life-threatening  
 9 drug, I don't see -- okay -- I don't see the medical  
 10 staff allowing it to be passed by correctional  
 11 officers. I think they would have set that up to  
 12 where they actually do that.  
 13 But, you know, in answer to your question,  
 14 there is times when correctional staff with some  
 15 training would dispense the meds. And it should be on  
 16 their med sheet. Does that answer your question?  
 17 Q. Yes.  
 18 A. Okay.  
 19 Q. Were correctional staff regularly dispensing  
 20 medications in the evening?  
 21 A. To my recollection, for a period of time,  
 22 yes. And once again, I don't know what time frames  
 23 that this actually started.  
 24 Q. Do you know what --  
 25 A. It was probably like 10:00 o'clock, just

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1 prior to bedtime, or something of this nature when the  
 2 medical staff has left. So you would have like maybe  
 3 a handful of inmates, maybe two or three inmates, need  
 4 to get whatever. Responsibility to report for your  
 5 medication is on the inmate. There's a specific time.  
 6 And there is a page made. And prisoners that need  
 7 their medications at that time, and they're aware of  
 8 this, then they would report for their medications.  
 9 Q. Did you ever hear complaints from prisoners  
 10 or from your staff that prisoners were being denied  
 11 medication by COs?  
 12 A. I never heard that. If I did, I don't  
 13 recall it.  
 14 Q. Would that be a serious problem to you if it  
 15 were true?  
 16 A. Oh, yes, very serious.  
 17 Q. Can you think of any justification for a CO  
 18 refusing to provide inmates with prescribed  
 19 medication?  
 20 A. None whatsoever.  
 21 Q. If the situation were presented to you where  
 22 a CO cut the med line and said everybody in front, you  
 23 get your meds, everybody behind, sorry, it's too late,  
 24 you got to come back tomorrow --  
 25 A. I would do my best to see that he's fired.

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1 Q. That would be a very serious transgression.  
 2 A. Very. I would try to get him fired. That's  
 3 health and safety. That's life-threatening. That's  
 4 not okay.  
 5 Q. But you never heard a complaint about that?  
 6 A. I never heard anything like that. Believe  
 7 me, you would know.  
 8 Now, there's time prisoners didn't get  
 9 medications, they didn't report and they don't show  
 10 up, you know. And, of course, then medical would look  
 11 at that. Well, this is important that he gets that.  
 12 They may even have to put him into the infirmary in a  
 13 controlled environment where they can assure that he  
 14 gets his medications. I mean, there was things to do  
 15 to make sure that a prisoner took medications that he  
 16 really needed.  
 17 Q. Let me make sure I understand the process.  
 18 If you're talking about a page that's -- you're  
 19 talking about a verbal page over a loud speaker  
 20 system, right, saying it's time for meds, if you have  
 21 a prescription you need to come get it? Is that the  
 22 type of thing you're talking about?  
 23 A. What I'm talking about is at a specific  
 24 time, let's say 10:00 o'clock, there is med pass.  
 25 Okay? So there's also a page made. So not only do

18 (Pages 66 to 69)



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1 you know at 10:00 o'clock, I have to get my meds,  
2 there's also what we call the boombox where master  
3 control, you get on the big speaker and you go, you  
4 know, meds are being passed at this time. And I mean,  
5 everybody can hear it.

6 Now, if the prisoner doesn't show up, he  
7 doesn't get his meds. Now, if it's something that's  
8 life-threatening that he needs to have -- and I have  
9 seen this happen -- medical would put him into medical  
10 seg to assure that they could monitor him and he'd get  
11 his meds.

12 **Q. Okay.**

13 A. Now, if you -- you know, if it was your  
14 stomach medicine or something, you know, whatever -- I  
15 mean, this would be something, you know, it's  
16 important you get this. This is life-threatening.  
17 And they would take those steps to make sure he got  
18 his meds. And I would sign off on the seg admission  
19 as superintendent.

20 **Q. And just so that I'm clear, when you're**  
21 **talking about a seg admission, segregation?**

22 A. Yes. And that's not the proper term. It  
23 would be actually placed in the infirmary. You know,  
24 it's just old habit. You'd call it medical seg.

25 And to my knowledge, Mr. Davis was never

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1 placed in medical seg. So I was not aware that there  
2 was any issues beyond these.

3 **Q. And I take it you're not aware of any**  
4 **situation where Mr. Davis showed up for med line and**  
5 **was denied his medication.**

6 A. I would fire the officer. Or if I couldn't  
7 fire him, I'd do my best.

8 **Q. That would be a very serious issue to you?**

9 A. Absolutely.

10 **Q. Do you know how long Mr. Davis was actually**  
11 **at Palmer?**

12 A. Haven't got a clue.

13 **Q. Do you know whether or not Mr. Davis'**  
14 **medical condition was ever mentioned in one of your**  
15 **daily briefings?**

16 A. I would -- I would assume and feel certain  
17 that it would be mentioned. You know, staff need to  
18 be made aware -- if you have a prisoner like this in  
19 the population, there needs to be an awareness that  
20 that person exists. And I feel certain that if you  
21 look at those records, you'll see that somewhere.

22 **Q. When you say "a person like this," a person**  
23 **with Mr. Davis' medical condition, is that what you**  
24 **mean?**

25 A. Somebody with a defibrillator, yes.

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1 **Q. That's a unique situation, right?**

2 A. Yes, that's unique.

3 **Q. You'd want to make sure --**

4 A. We've had -- I mean, it's not the first one.  
5 There's been people through there with pacemakers,  
6 et cetera. So -- but, you know, the staff need to be  
7 aware there's special needs here.

8 And I can't recall specifics, but I do  
9 recall that in these morning meetings, medical -- I do  
10 recall them, you know, frequently telling us about,  
11 you know, specific inmates and specific problems,  
12 et cetera. The exact context regarding Mr. Davis, I  
13 can't recall.

14 **Q. You would agree, Mr. Hyden, that an inmate**  
15 **that comes into your facility with an implanted**  
16 **defibrillator has special needs?**

17 A. Uh-huh.

18 **Q. That's what you just said, right? I need**  
19 **you to answer out loud. Sorry.**

20 A. Oh, yes. It's unusual and it should -- it's  
21 special, yes.

22 **Q. You would also agree, I take it, that PCC**  
23 **had an obligation to make sure his necessary medical**  
24 **care was taken care of.**

25 A. Oh, I don't know that it wasn't. He feels

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1 it wasn't. Mr. Davis -- you know, I'm not being smart  
2 here. He's still doing fine, to my knowledge. I  
3 don't know that anything was done there that was  
4 detriment to his health. I don't know that as a  
5 non-medical person.

6 **Q. You would agree that he -- his medical care**  
7 **needed to be attended to while he was at Palmer,**  
8 **correct?**

9 A. Yes.

10 **Q. And because of the fact that he had an**  
11 **implanted defibrillator, his medical needs were**  
12 **different than the average population up there, true?**

13 A. Absolutely.

14 **Q. It would be essential to make sure that any**  
15 **prescribed medications were given to him, right?**  
16 **Correct? You need to answer out loud.**

17 A. Once again, that depends on the medicine. I  
18 have inmates that come in, hey, I had a doctor that  
19 ordered me OxyContin ten years ago. And the thing  
20 still goes. I want this. Then the inmate files a  
21 grievance, I'm not getting my OxyContin. And the  
22 medical staff we had, no, you don't need that. You're  
23 not getting that.

24 So it's not an exact answer. You'd have to  
25 be more specific. Which medications, you know? And

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1 once again, I'm not that familiar with medications,  
2 because I'm not a medical person.

3 **Q. Are you familiar with a medication called**  
4 **Coumadin?**

5 A. Explain it to me. Make me familiar with it.  
6 I'm not -- I'm not that clear on it, no.

7 **Q. I'm just asking what knowledge you have.**

8 A. No. I have to trust my medical staff.  
9 That's all I have.

10 **Q. Okay. Is the medication Coumadin something**  
11 **that your medical staff had made you aware of prior to**  
12 **Mr. Davis?**

13 A. I can't recall that specifically.

14 **Q. You would agree with me, Mr. Hyden, that if**  
15 **Mr. Davis was prescribed Coumadin in order to make**  
16 **sure that his heart condition was kept under control,**  
17 **that PCC should make sure he got his Coumadin?**

18 A. I would say so, yes.

19 **Q. Your staff and the medical staff, right?**

20 A. I -- I would say so.

21 **Q. Would you also agree that if there were**  
22 **testing that were prescribed for Mr. Davis, medical**  
23 **testing while he was at PCC, that he should get that?**

24 A. Who prescribed it, the medical staff at  
25 Palmer or a doctor two or three years ago? I mean --

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1 **Q. Let's talk about -- how about if it's a**  
2 **doctor who gave a prescription for medical testing**  
3 **immediately before he was taken into State custody?**

4 A. I would say that there's a need for  
5 monitoring. Okay? How much and when, I'm not a  
6 medical person. I don't know the answer to that.

7 **Q. If that situation were presented to you**  
8 **where an inmate has a prescription for certain testing**  
9 **that's to be done on a regular basis and he provides**  
10 **that prescription to correctional personnel, do you**  
11 **think that prescription should be taken into account?**

12 A. I'm not a medical person. I can't  
13 accurately answer that. There's no way.

14 **Q. That's a better question for Mr. Henry?**

15 A. Exactly. I mean, I could spout off the top  
16 of my head. That don't make it so.

17 **Q. From what I hear you saying this morning,**  
18 **medical decisions really were out of your area; is**  
19 **that true?**

20 A. Largely, yes. They're within the confines  
21 of the medical expertise. For me to go dabbling in  
22 medical's affairs and tell them to do this and do  
23 that, I have no formal training. That's a lawsuit  
24 waiting to happen, so no.

25 **Q. So you stay out of it.**

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1 A. I -- I -- well, you know, you monitor to a  
2 degree, as we have here, but you have to depend on the  
3 experts, which I was doing. And based on what I had,  
4 you know, I felt everything was -- aware of his  
5 situation, but I felt everything was under control.

6 **Q. Do you know whether Mr. Davis was given any**  
7 **different treatment than anyone -- than the typical**  
8 **prisoner because of his heart condition?**

9 A. I -- I would say that he probably had way  
10 more treatment than the average prisoner because of  
11 this situation. And -- but once again, I don't know  
12 that for a fact.

13 **Q. Is it correct to say that it's -- at least**  
14 **in your eyes, it's really the prisoner's**  
15 **responsibility to go ask for medical care as opposed**  
16 **to the other way around?**

17 A. In some cases. Not in all.

18 **Q. How about in Mr. Davis' case?**

19 A. To go ask for care?

20 **Q. Yes.**

21 A. He can ask for anything. I think the State  
22 bears some responsibility to Mr. Davis to follow up  
23 and make sure that he maintains, you know, his health.  
24 What that -- what that would incur, you know, that's  
25 medical personnel that have to do that. But I feel,

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1 yes, they need to maintain his health.

2 When he comes to us, you know, I think in  
3 his case, what usually happened -- and I'm not going  
4 to be specific to Mr. Davis, because I can't recall  
5 specific issues. But if you had a special needs  
6 inmate, he would be seen more by medical. He would be  
7 seeing these contract physicians that came in. He  
8 would be taken on medical transportation to see  
9 medical doctors in different places. He would be  
10 paged to report to medical for different things.

11 If he wasn't receiving medication, like  
12 apparently that's what this is saying, I feel  
13 certain -- or as a rule, medical would page him and,  
14 you know, what's the problem here, et cetera. But  
15 specifically, I can't say in Mr. Davis' case how  
16 much -- where he went or how many doctors seen him.  
17 You know, I don't know.

18 **Q. Do you know whether or not any medical**  
19 **doctors saw Mr. Davis while he was incarcerated at**  
20 **Palmer?**

21 A. I'd bet everything on it, but I don't know.

22 **Q. Given what you know about it, you would**  
23 **expect that he would have seen a medical doctor --**

24 A. Right.

25 **Q. -- while he was at Palmer.**

20 (Pages 74 to 77)



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1 A. Uh-huh. That would be my assumption. Or at  
2 least a -- what do you call it when one doctor calls  
3 another and confers? There's a word they use. I'm  
4 not familiar with it, but --

5 **Q. Consultation?**

6 A. Yeah, consultation. There might have  
7 been -- even that, I'm sure would probably be  
8 something that would have been done. But once again,  
9 it's all conjecture.

10 One minute?

11 MR. MATTHEWS: Absolutely.

12 (Brief recess.)

13 BY MR. MATTHEWS:

14 **Q. Back on. As I understand what you just**  
15 **said, you would have expected Mr. Davis to have been**  
16 **seen by a medical doctor while he was at Palmer,**  
17 **right, based on what you --**

18 A. That would be an expectation I would have,  
19 yes.

20 **Q. Did you ever suggest that Mr. Davis be seen**  
21 **by a medical doctor for any reason?**

22 A. No, I did not.

23 **Q. Do you know, Mr. Hyden, what risk Mr. Davis**  
24 **faced if he didn't get his Coumadin medication?**

25 A. No way.

1 time there is no indication that the medical and  
2 security staff at Palmer Correctional Center can not  
3 meet your essential health care needs per" Department  
4 Policy 807.02. And, you know, when I look at that, I  
5 have to assume everything's okay. He's the health  
6 care professional.

7 **Q. And you're looking at the fourth page of**  
8 **Exhibit 4?**

9 A. I'm looking at the response by Mel Henry to  
10 the appeal of the grievance.

11 **Q. And that response is dated September 5th,**  
12 **2002, right?**

13 A. That is correct.

14 **Q. And your suggestion was made on June the**  
15 **27th, 2002, right?**

16 A. June 27th, '02.

17 **Q. Do you know anything about what occurred**  
18 **with Mr. Davis' grievance in the intervening two and a**  
19 **half months?**

20 A. Repeat that, please.

21 **Q. Do you know anything about what occurred**  
22 **with Mr. Davis' grievance in that two and a half**  
23 **months between the time you signed off on June 27th**  
24 **and Mr. Henry signed off on September 5th?**

25 MS. KAMM: I think two and a half months is

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1 **Q. Do you know what risk Mr. Davis faced**  
2 **because of the fact that he was on Coumadin?**

3 A. This is all medical stuff. I couldn't  
4 answer that. Unless I was made aware by medical staff  
5 of something like this, I wouldn't know the answer.

6 **Q. As I understand it, Mr. Davis was**  
7 **transferred to PCC from Lemon Creek in Juneau. Were**  
8 **you aware of that?**

9 A. I don't know where they come from.

10 **Q. My question to you was going to be, do you**  
11 **have any idea why he was transferred up to you from**  
12 **Juneau?**

13 A. Haven't a clue, unless it was population  
14 management. I don't know.

15 **Q. Not something that --**

16 A. I have 400 inmates. The last thing I'm  
17 going to do is go why is he here or where is he coming  
18 from. It's just not something that you do.

19 **Q. Okay. Do you know whatever happened to your**  
20 **suggestion that he be transferred to a different**  
21 **facility?**

22 A. Well, if we look at the grievance and  
23 Mr. Mel Henry's response, apparently the medical  
24 professional did not agree with my findings. So -- in  
25 fact, his last sentence states that "At the present

1 a little bit extended.

2 BY MR. MATTHEWS:

3 **Q. Two plus months.**

4 A. Well, the director has 30 days to respond.  
5 So whenever Mr. -- the sergeant would have sent this  
6 to the director, which would have been sometime after  
7 June 27th. But I was not aware of any problems or  
8 anything in this between time that you're referring  
9 to.

10 **Q. Let me make sure I understand the process.**  
11 **Is there -- I know you explained it earlier. But once**  
12 **the appeal is filed by Mr. Davis, which we see on page**  
13 **three --**

14 A. Uh-huh.

15 **Q. -- the appeal statement on June 27th, it**  
16 **then goes to the compliance officer again, right?**

17 A. That's correct.

18 **Q. And from there it goes on to the director?**

19 A. That's correct.

20 **Q. And the director under the policies and**  
21 **procedures has 30 days to review the grievance.**

22 A. Thirty days to respond.

23 **Q. And from there if the prisoner still isn't**  
24 **satisfied, it goes where?**

25 A. Court.

21 (Pages 78 to 81)

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1 Q. Is it your impression in looking at these  
2 documents in Exhibit 4 that the director's response,  
3 if you will, is what's made by Mel Henry?

4 A. That is correct.

5 Q. That's well more than 30 days afterwards,  
6 right?

7 A. That would appear so, yes.

8 Q. Do you know why it took so long?

9 A. Haven't a clue.

10 Q. Do you know anything about Mr. Davis'  
11 medical condition in that intervening time?

12 A. None. I was not made aware there was a  
13 problem or I'd have done something. In my case, doing  
14 something would be talk to these people, Mr. Henry's  
15 people, that I'm uncomfortable with whatever.

16 Q. Is it fair to say that you personally didn't  
17 take any action with respect to Mr. Davis' status at  
18 PCC after June 27th in response to his grievance?

19 A. None that I -- none that I recall. I wasn't  
20 aware that there was a problem.

21 Q. In the time that Mr. Davis was at Palmer, do  
22 you know if there was ever an effort to have him  
23 examined by a medical doctor with cardiac training?

24 A. Don't know. It's all medical.

25 Q. As to any specific questions about

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1 lawsuit?

2 A. That's about the last I heard of it, to my  
3 recollection.

4 Q. Did you personally take any steps after  
5 June 27th, 2002 to make any changes in the medical  
6 care that Mr. Davis received?

7 A. It's not my -- I mean, I could make a  
8 suggestion, but I don't recall the need to do so.

9 Q. You don't have any memory of making  
10 suggestions?

11 A. No.

12 Q. Do you have any memory of suggesting that  
13 Mr. Davis' medical monitoring be changed in any way?

14 A. No. I mean these questions are like if  
15 you're not aware there's a fire somewhere, you know,  
16 you're not going to go put the fire out. There is no  
17 fire. I did -- I wasn't aware there was a fire  
18 anywhere. So I'm not going to be standing there with  
19 the hose ready to put the fire out, because I didn't  
20 know there was a fire.

21 Q. On June 27th, 2002 you were aware that  
22 Mr. Davis had concerns about his medical care, right?

23 A. Yes.

24 MR. MATTHEWS: Mr. Hyden, thank you. That's  
25 all the questions I have.

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1 Mr. Davis' medical care while he was at Palmer, you're  
2 not the person to ask those questions to.

3 A. That's about the size of it. I wouldn't --  
4 once again, I have to listen to these people. They're  
5 the professionals. And what they tell me, I have to  
6 go with.

7 I may even go as far as say maybe, well, you  
8 should look at transferring this guy if he feels this  
9 uncomfortable here. They disagreed with me. They  
10 felt as like on the last page, Mr. Henry's response,  
11 there's no indication that his needs are not being  
12 met. And that's what I have to go with.

13 Q. Do you have -- do you have any memory of  
14 discussing Mr. Davis' grievance with Mel Henry at any  
15 point in time?

16 A. I have no recollection of that.

17 Q. Is that something you would typically do  
18 with a grievance if it were medical in nature?

19 A. Not usually, no. If -- if there was a  
20 problem -- Mel Henry thought there was a problem or  
21 something, you know, he might call. But it never  
22 happened, to my recollection.

23 Q. Is it fair to say that once Mr. Davis'  
24 grievance was signed off by you in June of 2002,  
25 that's about the last that you heard of it until the

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1 THE WITNESS: That's it? Okay.

2 MS. KAMM: Thank you.

3 MR. MATTHEWS: Thank you.

4 (Whereupon, the deposition was  
5 concluded at 11:52 a.m.)

6 (Signature pending.)

22 (Pages 82 to 85)

Exhibit 15Page 22 of 23

SUSAN CAMPBELL, CSR  
My Commission Expires 4/26/08

I hereby certify that I have read the foregoing deposition and accept it as true and correct, with the following exceptions:

Page	Line	Description/Reason for Change
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[illegible]

SIGNATURE	DATE
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Please sign your name and date it on the above line.  
(As needed, use additional paper to note corrections,  
dating and signing each page.) (SC)